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FISCAL IMPACT STATEMENT

LS 7117

BILL NUMBER: HB 1273

NOTE PREPARED: Jan 3, 2007

BILL AMENDED:

SUBJECT: Taxation of Eminent Domain Proceeds.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that the gain attributable to the sale or condemnation of real property located in Indiana resulting from a threatened, imminent, or actual exercise of the power of eminent domain is not subject to: (1) the Adjusted Gross Income Tax; (2) the Financial Institutions Tax; or (3) Local Income Taxes based on Adjusted Gross Income.

Effective Date: January 1, 2008.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this new deduction for eminent domain proceeds. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: *Summary:* The bill would reduce Adjusted Gross Income (AGI) Tax and Financial Institutions Tax liabilities of taxpayers that receive eminent domain awards. Data regarding eminent domain awards to Indiana residents is unavailable. As a result, the revenue loss due to this bill is indeterminable. The impact of the deduction also could potentially be diminished to the extent that: (1) a taxpayer has federally deductible losses; or (2) an award involves the sale of a taxpayer's principal residence, the gain from which would already be excluded from federal AGI for most taxpayers. Currently, an individual taxpayer may exclude up to \$250,000 (\$500,000 for joint filers) in monetary gains from the sale of his or her principal residence. Any fiscal impact relating to this deduction could potentially begin in FY 2009.

Background Information: The bill allows an AGI deduction for individual and corporate taxpayers, and

financial institutions, for eminent domain awards included in the taxpayer's federal adjusted gross income (federal taxable income for corporations and financial institutions) as a net capital gain or ordinary income. Since the deduction is effective beginning in tax year 2008, the fiscal impact would begin in FY 2009. Revenue from the AGI Tax on corporations and the Financial Institutions Tax is deposited in the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of the revenue is deposited in the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: Because the proposed deduction would serve to decrease taxable income of individuals, counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) may, as a result, experience an indeterminable decrease in revenue from these taxes.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with local option income taxes.

Information Sources: *U. S. Master Tax Guide, 2007*, paragraphs 1705-1716.

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